IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1093 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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VINODCHANDRA HARILAL VYAS - Applicant(s)
Versus
STATE OF GUJARAT - Respondent(s)

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Appearance :
MR PRAVIN GONDALIYA for Applicant(s) : 1,
MR MR MENGDEY, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 10/09/2007

ORAL JUDGMENT

1. By way of this petition under Articles 226/227 of the Constitution of India, the petitioner – original accused has prayed for an appropriate

order directing that all the sentences imposed on the petitioner by different judgments and orders passed by the learned J.M.F.C., Surendranagar dated 06.10.2006 in Criminal Cases Nos. 1911/2004, 1947/2004, 124/2005, 1950/2004, 1638/2004, 1639/2004 and 772/2004 to run concurrently.

2. Learned Advocate appearing on behalf of the petitioner – original accused has vehemently submitted that looking to the old age of the petitioner i.e. 63 years, discretion be exercised in favour of the petitioner and appropriate order be passed that all the sentences imposed on the petitioner vide judgment and order passed by the learned J.M.F.C., to run concurrently. Learned Advocate appearing on behalf of the petitioner has fairly conceded that as such there is no law and/or rule, except it is discretion of the Court. Merely on the ground that petitioner – original accused is aged 63 years, is no ground to pass an order that the conviction imposed by the learned trial Court in different cases to run concurrently. It is required to be noted that for seven different cheques which

came to be dishonored, seven septate criminal cases came to be filed and; that the petitioner – original accused is convicted by different judgment and orders. The petitioner is convicted under Section 138 of the Negotiable Instruments Act. Considering the object and purpose of enacting the Negotiable Instruments Act, and the petitioner is convicted under Section 138 of the Negotiable Instruments Act, no case is made out to exercise discretion in favour of the petitioner – original accused for the aforesaid reliefs. Even 63 years of age cannot be said old age person. Under the circumstances, there is no substance in the petition, requires to be dismissed and accordingly it is dismissed.

[M.R.Shah, J.]

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